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CAMPAIGN FINANCE GUIDE

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Statewide, County and Other "Depository" Candidates

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Office of Campaign and Political Finance
Commonwealth of Massachusetts

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This brochure is designed to introduce candidates for statewide, county, Governor's Council and certain municipal offices (known as "depository candidates") and the treasurers of their political committees to the provisions of the campaign finance law. The Office of Campaign and Political Finance (OCPF) is responsible for administering Massachusetts General Laws Chapter 55, the campaign finance law. The office is available to assist individuals in understanding and complying with the statute and encourages candidates, treasurers, committee members and interested parties to familiarize themselves with these laws and regulations.

This publication is meant only to be an introductory guide to the campaign finance law, not a substitute for it. It is the responsibility of all those participating in political campaign financing in Massachusetts to become knowledgeable with the provisions of the law and regulations. Violations of the law carry serious penalties of fines, imprisonment or both. For additional information please contact the

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Office of Campaign and Political Finance

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance law and established the Office of Campaign and Political Finance. While the 1970s saw a push for reforms in campaign finance disclosure laws all across the country, portions of the campaign finance law were on the books in Massachusetts as early as 1884. Some of those original laws provide for restrictions on and protections for public employees and will be discussed later in this brochure. Significant changes to the law were later made through Chapters 43 and 292 of the Acts of 1994. Many of these changes depository candidates and are addressed in detail in this brochure.

The Campaign Finance Law

Chapter 55 of the Massachusetts General Laws is a comprehensive statute concerning the financing of political campaigns in the Commonwealth. The statute requires, for example, that candidates and political committees disclose all contributions received and expenditures made. The campaign finance law also provides for limitations, and in some cases absolute prohibitions, on certain sources of campaign contributions. Additionally, the way in which campaign funds may be spent is regulated by the statute as well as by regulations and guidelines established by OCPF. Finally, Chapter 55 regulates certain conduct in connection with the raising and spending of campaign funds, such as the activities of public employees, and prohibits the use of governmental resources for political purposes. OCPF has promulgated regulations (970 CMR) on contributions and expenditures, which should be consulted for more specific guidelines on these requirements.

The Depository Candidate

If you are thinking about running for elective office, you should contact OCPF before undertaking any activity. The statute has a very broad definition of "candidate," and you may be considered a candidate under the law well before any formal announcement of candidacy is made. For example, an individual who accepts contributions or makes expenditures in relation to a run for office may have qualified himself as a candidate even before taking out nomination papers.

Candidates for statewide, governor's council, county and certain municipal offices are required by law to designate a bank in Massachusetts as a depository for campaign funds. Thus, OCPF refers to such candidates as "depository candidates." This brochure addresses issues concerning depository candidates, as well as treasurers of committees organized on behalf of depository candidates, who include individuals seeking the following offices:

- **Statewide Office**: Governor; Lieutenant Governor; Secretary of State; Attorney General; Treasurer and Receiver General; Auditor.

- **Governor's Council** (also known as the Executive Council).

- **County Office**: District Attorney; Clerk of Courts; Registrar of Probate; Registrar of Deeds; County Commissioner; County Treasurer; Sheriff.*

* Candidates for other elected regional offices, including the Barnstable Assembly of Delegates and the Martha's Vineyard Commission, do not report in the depository system. Candidates for elected regional boards that are successors to disbanded county commissions may not be considered depository candidates, but they still have reporting obligations and should contact OCPF for more information.

- **Certain Municipal Offices**: Citywide candidates (other than school committee candidates) in cities with populations greater than 100,000 in the last (1990) federal census. These candidates include mayoral and at-large city council candidates in the cities of **Boston, Lowell, Springfield and Worcester**. They do not include ward or district city councilors since such candidates do not run on a citywide basis.

Massachusetts has a unique reporting system for candidates for these offices. The law is intended to provide for maximum disclosure of campaign finance activity through periodic reports. OCPF can assist individuals in setting up a depository account and provide briefings on the procedures and use of the various forms.

All of a candidate's receipts must be deposited into and expenditures made out of the designated depository bank account, including any of the candidate's own funds. The candidate's bank reports all contributions and expenditures to OCPF based upon information furnished to the bank by the candidate and treasurer. These reports are filed by the bank once each month during non-election years and during the first six months of an election year in which the candidate appears on the ballot so long as the candidate or committee has more than $250 in receipts or expenditures. During the last six months of an election year, these reports are filed twice each month for candidates on the ballot, regardless of activity.

No candidate or individual holding elective public office on the state, county or municipal level may establish, finance, maintain, control or serve as a principal officer of a political action committee, or PAC. The only exceptions to this prohibition are the PACs which each political party in the state Senate and House of Representatives may organize and maintain. Candidates and elected officials may, however, serve

as officers of people's committees, political party committees, ballot question committees or candidate committees (though no candidate may serve as his or her own committee treasurer).

Organization and Disclosure Forms

The following is a summary of the appropriate forms required for depository candidates and their purpose. Contact OCPF for further details concerning these forms and the procedures for filing them.

Form CPF 101: Statement Of Organization Of A Candidate Committee

Although the law does not require a candidate to have a political committee organized on his or her behalf, many candidates have one. A public employee who runs for elective office and wishes to raise money must have a political committee organized on his or her behalf handle all fundraising activities because public employees are prohibited from political fundraising, even for their own campaigns (see *Public Employees, Buildings and Resources*, Page 15).

Form CPF 101 should be filed with OCPF as soon as the committee is organized. A political committee may not accept any contributions nor incur any expenses until it files Form CPF 101.

This form contains the names and addresses of the committee chairman and treasurer and the name of the candidate for whom the committee is organized. Any change in information previously submitted should be reported to OCPF within 10 days of such change. Political committees are prohibited from receiving or expending funds without a

treasurer. Any change in treasurer should therefore be reported by completing Form CPF T 101 and filing it immediately.

A candidate may have only one committee organized on his or her behalf, even if the candidate holds more than one elective office. If a candidate seeks state or county office and later wishes to seek office at the municipal level, or vice versa, such candidate must transfer his committee from the state to the municipality or vice versa. OCPF can assist you in accomplishing these transfers.

By law, a committee must name a chairman and a treasurer. The chairman and the treasurer may be the same person, unless that person is a public employee. A public employee may not serve as the treasurer of any political committee since such a position would involve the solicitation and/or receipt of money for a political purpose, which is prohibited by law. (See Page 15.) A candidate may **not** be the treasurer of his or her own committee.

Form CPF D 102: Campaign Finance Report

Form CPF D 102 must be completed by each candidate and each treasurer on the following schedule, and must be signed by each under the penalties of perjury. Candidates and treasurers are responsible for the legality, validity, completeness and accuracy of each of their reports. **These reports must be filed whether or not money has been raised or expended during the reporting period and whether or not the candidate is nominated or elected.** Reports are due to OCPF by the close of business (5:00 p.m.) on the day the report is due. **The candidate is personally liable for a $10 per day late fine imposed by OCPF for each day a report is late.**

Initial Report: This report, which must be filed within three business days after the candidate designates a depository bank, discloses any activity which may have occurred prior to the

designation of that bank, complete through the date of the bank's designation.

Year-end Report: This report is to be filed on or before January 20 in the following year complete from the day following the ending date of the last Form CPF D 102 filed through December 31. This report summarizes all receipts and expenditures for that reporting period.

Form CPF D 102 is also used to disclose any outstanding liabilities, "in-kind contributions" (anything of value received other than cash or checks), and savings account information. This form, filed once each year, provides the only disclosure of a depository candidate's in-kind contributions, liabilities and savings account information.

Form CPF D 103: Appointment Of Depository Bank

Depository candidates and their committee treasurers must jointly designate a bank in Massachusetts as a depository for their campaign funds. Form CPF D 103 is used for this purpose. By appointing the bank as your depository for campaign funds, you authorize the bank to report to OCPF a record of your receipts and expenditures based on information you furnish the bank.

The treasurer or cashier of the bank must sign this form acknowledging and accepting the reporting responsibilities of your campaign account to this office. Even a candidate who does not intend to open a bank account because he or she will not receive any contributions or make any expenditures must still designate a depository bank by filing Form CPF D 103.

Form CPF D 104: Statement Of A Candidate Who Has Not Opened A Candidate Only Account In The Designated Depository Bank

This form, which is attached to the Form CPF D 103, is an affidavit that must be filed when the candidate does not intend to spend or receive any money independent of his or her committee, or by a candidate without a committee who does not plan to receive any contributions or make any expenditures, even from his or her own funds.

Form CPF D 106: Receipts and Expenditures Report

All contributions must be deposited in the form received in the designated bank no later than the end of the seventh day after receipt.

The blue Form CPF D 106 must be filled out **in triplicate** and accompany all deposits. The name and residential address of the contributor must be included on this form for any receipt in excess of $50. Contributions of $50 or less may be combined in one total at the bottom of the form. However, any contributor of $50 or less must be itemized if the aggregate or his or her contributions for the calendar year has exceeded $50. Make sure to list the receipts on the side labeled for receipts; the other side labeled for expenditures will be completed by the bank. All three copies of Form CPF D 106 are filed at the designated bank when depositing contributions. Upon submission, the bank will receipt stamp and return one set of forms for the candidate's/committee's records; it will retain two sets, one for its records and the original to be filed as a public record with OCPF on the reporting schedule as described in the previous section.

Please note that the total on the deposit slip must equal the totals on the forms being submitted.

Records of all receipts and expenditures must be maintained by the candidate and committee for all activities, <u>regardless of amount</u>. Candidates and treasurers of all political committees organized in Massachusetts are

required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election.

Special Bank Accounts and Checks

Depository candidates are required to use a special check printed to comply with the requirements of M.G.L. Chapter 55, section 19. A sample blank check form is included in the candidate's depository kit available from OCPF.

All campaign payments in excess of $50 must be made to a named payee by one of these specially-formatted checks drawn on the candidate's depository account. A check payable to a candidate or treasurer, for use as petty cash for the campaign or as reimbursement for expenditures made, may not exceed $50 and such checks may not exceed $500 in the aggregate for any reporting period.

The candidate or treasurer may not make an expenditure unless there are funds on deposit to pay the amount of such expenditure, together with all unpaid obligations then outstanding, or unless the candidate or treasurer files with OCPF in each bank reporting period a complete statement of all outstanding obligations, their purpose and terms, and the names and addresses of the persons to whom such obligations are owed.

Contribution Limits

All contributions must be deposited into, and all expenditures must be made out of, the candidate's designated depository bank account. The following is a summary of

limitations on contributions made to a depository candidate or that candidate's committee:

- An *individual* may contribute up to an aggregate of $500 to a candidate and that candidate's committee in a calendar year. Individuals are limited to $12,500 per year in aggregate contributions to all state, county and municipal candidates and candidate committees. An individual under age 18 is limited to a total of $25 in political contributions to all candidates and political committees in a calendar year. The candidate, however, may contribute without limit to his or her own campaign.

- Registered *lobbyists* may only contribute up to an aggregate of $200 per year to a candidate and that candidate's committee.

- A *ward or town party committee* may contribute up to an aggregate of $1,000 per year to a candidate and that candidate's committee. There is no limit on in-kind contributions from a ward or town party committee.

- A *state party committee* may contribute up to an aggregate of $3,000 per year to a candidate and that candidate's committee. There is no limit on in-kind contributions from a state party committee.

- A *political action committee (PAC)* or a *people's committee* may contribute up to an aggregate of $500 per year to a candidate and that candidate's committee.

- Candidates for statewide office, governor's council and county office are subject to an aggregate limit on what they may accept from all PACs in a calendar year. It is the responsibility of the candidate to know when he or she has

exceeded his or her aggregate annual PAC limit. Those limits are:

Governor	$ 150,000
Lieutenant Governor:	$ 31,250
Attorney General:	$ 62,500
Secretary of State:	$ 37,500
Treasurer:	$ 37,500
Auditor:	$ 37,500
Governor's Council	$ 18,750
County office	$ 18,750

There are no limits on what a candidate may accept in the aggregate from people's committees during a calendar year.

- A candidate or candidate's committee may not accept any contribution, including an in-kind contribution of goods, services, equipment, personnel, facilities or the like, from a *business or professional corporation*, or from any association or organization comprised in whole or in part of such corporations.

- An individual may use his or her *unincorporated business* to make an individual campaign contribution. The contribution must be attributable to an individual partner and/or proprietor in that business and is applied to his or her $500 contribution limit.

The reporting of all contributions received by a candidate or a candidate's committee is required under M.G.L. Chapter 55. Some of the requirements for disclosure are outlined below.

- Each contributor must furnish the candidate or committee with his/her true name and address at the time the contribution is made.

- The candidate or committee must ask once at the time of solicitation and in one written follow-up request for the occupation and employer for any contributor who has given $200 or more in a calendar year. A copy of the written request must be kept as part of the candidate's records. If a contributor still does not provide the information after the two requests, the committee has complied with the law and may keep the contribution.

- Contributions listed from a trust, foundation or association must include the names and residential addresses of its principal officers.

- Contributions from the same person which in the aggregate in a calendar year exceed $50 must be made by a personal check or a check drawn on an account for which the contributor is personally liable. Cash, money orders, cashier's checks, bank checks, payroll deductions, etc., are prohibited in any amounts greater than $50 in the aggregate per contributor per calendar year. Contributions by credit card are prohibited in any amount.

- Contributions of anything of value other than cash or checks are "in-kind" contributions, are reportable on Schedule C of the year-end report and are subject to the same contribution limits previously mentioned. Monetary and in-kind contributions are counted in combination toward an individual's contribution limit. Examples of in-kind contributions include, but are not limited to, rental space, furniture, office equipment, printing, postage and advertisements.

- Loans are defined as contributions and are subject to the same restrictions previously mentioned. Candidates for statewide office are subject to the following limits on what

they may loan their political committees per election (primary or general):

Governor	$ 200,000
Lieutenant Governor	$ 200,000
Attorney General	$ 150,000
Secretary of State	$ 150,000
Treasurer	$ 150,000
Auditor	$ 150,000
Governor's Council, county or municipal offices	No limit

Expenditures

The following is a summary of limitations placed on expenditures by candidates and candidate committees:

- Expenditures by depository candidates for statewide office or their committees may be made for reasonable and necessary expenses directly related to the campaign. All other depository candidates or their committees may make expenditures for the enhancement of the political future of the candidate. No candidate or committee may make expenditures which are primarily for the candidate's or any person's personal use. Expenditures may be made to reimburse an agent of a committee for individual expenses of $50 or less paid out of pocket for the benefit of, and with the authorization of, the committee. However, any expenditure in an amount exceeding $50 must be made only by a specially-formatted check drawn on the candidate's depository account.

- A candidate may make expenditures from his or her personal funds without limitation for the purposes of his or

her own campaign, including making contributions to his or her own committee. Such expenditures, however, **must** be made through the candidate's designated depository bank account.

- A business or professional corporation may not expend money on behalf of any candidate, candidate's committee, PAC, people's committee or committee of a political party. A business or professional corporation also may not provide goods, services, equipment, personnel, facilities, etc. unless paid fair market value for such items by the candidate or committee.

- The committees of statewide depository candidates may not contribute to any other candidate or candidate's committee. Statewide candidates may, however, make contributions to political party committees on the ward, town, city or state level of not more than $100 per committee and not more than $1,500 in the aggregate to all such committees in a calendar year. All other depository candidates or their committees may contribute up to $100 to any other candidate or political committee, but not more than $1,500 in the aggregate to all other candidates or political committees.

- Surplus money may be placed in an interest bearing money market or savings account. No other type of investment is allowed by law. Expenditures may not be made out of any savings account, but must first be transferred back into the candidate's designated depository account before an expenditure is made.

Dissolution of a Committee

Committees that have no cash balance, assets or outstanding liabilities and wish to dissolve may do so. Candidates and committees that do not dissolve must continue to report on a regular basis. Contact OCPF prior to preparing your application for dissolution. Committees should not close their depository bank accounts before contacting OCPF.

All residual funds from committee or candidate accounts must be donated to any of the following: (1) the Commonwealth of Massachusetts Local Aid Fund; (2) the general fund of a city or town; (3) a scholarship fund; or (4) a charitable or religious organization. Donations to scholarship funds and charities are subject to certain restrictions. Contact OCPF for more information.

Treasurers of committees are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election. This statutory provision applies to all political committees organized in Massachusetts.

Public Employees, Buildings and Resources

OCPF administers Sections 13-17 of M.G.L. Chapter 55, which concern political activity involving public employees, buildings and other resources that are publicly funded. These laws were designed to: protect public employees from being coerced into providing political contributions or services as a condition of their employment; protect individuals doing business with the public sector from being coerced into providing political contributions or services; and separate governmental activity from political campaign activity.

OCPF has published a *Guide to Political Activity for State, County and Municipal Employees*, which is available upon request. The following is a summary of the limitations on the political finance activities of public employees and the use of public buildings and resources in campaigns:

- No state, county, city or town employee employed for compensation, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for *any* political purpose.

- If a person is both a public employee and an elected official, the prohibitions against soliciting or receiving political contributions would still apply to him or her.

- No person may solicit or receive campaign contributions in a building occupied for any state, county or municipal purpose.

- No person in the public service may be compelled to make a political contribution or to render any political service, and no public official or employee may be prejudiced in his or her employment for failure to make a political contribution or be rewarded for making a political contribution.

- A political committee may not solicit or receive a contribution on behalf of a candidate who is public employee if the contributor has an interest in any particular matter in which the employee participates or which is the subject of his official responsibility.

- No public resource may be expended or utilized in order to promote or oppose the nomination or election of any candidate to public office or to promote or oppose any ballot question placed before the voters. Examples of public

resources include: paid staff time of public employees, office equipment, vehicles, buildings and supplies.

In some cases, agency policy or the conflict-of-interest law, M.G.L. Chapter 268A, may establish additional standards for political activity by public employees. Public employees should consult the State Ethics Commission (617-727-0060) as well as their supervisors or agency heads.

Seeking Guidance from OCPF

OCPF welcomes inquiries regarding campaign finance activities. The office issues written advice, including advisory opinions and guidance letters, to individuals based on written requests describing specific facts and circumstances. OCPF can issue opinions only on prospective activities. If you have any questions concerning advisory opinions, please contact the office. You may also obtain informal, oral advice by calling the office at the numbers listed in the front of this brochure.

In addition to issuing specific written advice, OCPF occasionally issues interpretive bulletins and memoranda setting guidelines on a variety of subjects. These documents are available from OCPF and may be helpful in assisting candidates, committees and other organizations.

Filing a Complaint

Individuals with information concerning possible violations of the campaign finance laws may call or write OCPF. If you have reason to believe that a violation has occurred, you may file a complaint. The office reviews all matters brought to its attention, regardless of the source of the complaint. The identity of complainants is kept confidential.

OCPF cannot comment on any matter that is under review or investigation. Consequently, an individual making a complaint will not receive periodic information on the status of the complaint. The complainant will receive notice, however, of any public disposition of a case.

Q. ***Am I required to organize a committee for my campaign for legislative office?***

A. The campaign finance law does not require a candidate to form a committee unless he or she is a public employee and plans to raise money from other persons for his or her campaign. Such a candidate must form a committee because public employees may not solicit or receive campaign contributions. However, OCPF recommends that candidates form committees to receive and disburse funds and handle recordkeeping

Q: ***May a candidate be the treasurer or chairman of his/her own political committee?***

A: A candidate may not be treasurer of his or her own committee, but may serve as chair.

Q: ***May the treasurer and chairman of the committee be the same person?***

A: Yes, unless that person is the candidate or a public employee. A public employee may not be a treasurer of any political committee and may even encounter difficulties serving as the chairman of a political committee because of the fundraising restriction. If you are a public employee contemplating serving as a committee chairman, contact OCPF.

Q: ***May a business make a campaign contribution to a candidate?***

A: Business and professional corporations may not make contributions to candidates or their political committees. However, an individual may use his or her unincorporated business, including a partnership, to make a contribution to the campaign fund of a candidate. In such cases, the contribution should be reported with the name of the

individual owner or partner who is d/b/a (doing business as) the non-incorporated business as well as the name of the business (e.g., John Smith d/b/a Smith's Hardware).

Q: ***What number should I give the bank for the committee tax identification number?***

A: The I.R.S. administers U.S. revenue laws. Candidates and political committees should consult the I.R.S. for information on these laws and how to obtain an I.R.S. tax identification number at (617) 536-1040. In addition, they should contact the Massachusetts Department of Revenue at (800) 392-6089 for information on any state tax requirements which may be applicable.

Q: ***How much may I contribute to my own campaign?***

A: While individual contributions, including contributions from spouses and other family members, are limited to $500 in a calendar year, a candidate may contribute without limit from his/her personal funds to his/her own campaign. However, you may not loan your committee more than the amounts outlined in the section on candidate loans on Page 13.

Q: ***If I do not plan on spending or receiving any money for my campaign, must I still designate a bank?***

A: Yes. While you are not required to open an account, the law requires you to designate a bank as your depository in the event you have financial activity in the future.

Q: ***Do I have to have special checks printed?***

A: Yes. The law requires that depository candidates utilize specially-formatted checks with an affidavit printed on the back.

Q: ***Do I have to open a depository account if I only plan on spending my own money?***

A: Yes. The law requires that all expenditures be made out of the depository account, even if the only contributions are from the candidate himself or herself.

Q: ***I would like to change some information on the previously filed Form CPF 101 (Statement of Organization of a Candidate Committee). How would I do that?***

A: Any changes to the originally-filed Form CPF 101 must be made within 10 days of the actual change. For most changes, a letter of amendment clearly stating the change from the previously-filed Form CPF 101 may be filed with OCPF. The only exception to this is in the case of a change of treasurer, for which the candidate and the new treasurer must file Form CPF T 101 (Change of Treasurer) with OCPF. No money may be raised or spent by the committee until Form CPF T 101 is filed.

Q: ***I am thinking of running for a local office in my community. Can I keep the same committee I had for my campaign for statewide or county office?***

A: Yes. In fact, since the law allows a candidate to have only one political committee organized on his or her behalf, a candidate for a municipal office who currently has a political committee organized with OCPF would have to transfer the existing political committee to the municipal election official. The organization of a second political committee for the candidate would be a violation of state law. Please contact OCPF to obtain Memorandum M-95-08 for more information on the transfer process.

Q: ***I am an appointed public employee. May I ask a friend or relative to purchase a ticket to a fundraiser for a candidate?***

A: No. Section 13 prohibits this activity at any time.

Q: ***I am an appointed public employee. May I run for public office?***

A: Yes. While M.G.L. Chapter 55 does not prevent a public employee from running for public office, it does prohibit fundraising by a public employee for any candidate. If you run for office, you must organize a political committee and have that committee handle all fundraising activity. That committee, however, is prohibited from soliciting or receiving campaign contributions from any individual who is subject to your official responsibility or has an interest in any particular matter in which you participate in your position. You should also check with your agency, the State Ethics Commission and/or your city or town for further guidance or restrictions.

Q: ***May a committee use a public building as an address to send a contribution to a candidate's political committee?***

A: No. Such action is prohibited by Section 14.

Q: ***I am an appointed public employee as well as a candidate for county office. May I use the printing machine in the office I work in to prepare a flyer or letter about my candidacy?***

A: No. The campaign finance law prohibits any person from using a public resource such as office space or equipment for political purposes. The law also prohibits an appointed public employee from engaging in campaign activities while being paid by his or her public agency during work hours.

Q: ***I am a candidate for statewide office. May I serve as the treasurer of a PAC? What about another candidate's committee?***

A: A candidate or elected official on the state, county or municipal level is prohibited by law from serving as the principal officer of, or organizing, financing, maintaining or controlling a PAC. Candidates and elected officials

may, however, serve as officers of as many people's committees or other candidate, party or ballot question committees as they wish.

Campaign Finance Guides available from OCPF:

Statewide, County and Other "Depository" Candidates
Candidates for The General Court
Candidates for Municipal Office
State Ballot Question Committees
Municipal Ballot Question Committees
Political Action Committees and People's Committees
Ward, Town and City Political Party Committees
Public Employees, Public Resources and Political Activity

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